

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

- against -

PLATFORM SOLUTIONS, INC., and
T3 TECHNOLOGIES, INC.,

Defendants.

AMENDED CIVIL CASE
DISCOVERY PLAN AND
SCHEDULING ORDER

Civil Action No. 06-CV-13565-LAK

The following Amended Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel for the parties, pursuant to Rules 26(f) and 16 of the Federal Rules of Civil Procedure. Deadlines established in the previous scheduling orders in this action that have already passed are not repeated in this Order.

The case is to be tried by a jury.

1. Amended pleadings, if any, shall be filed by August 1, 2008. Thereafter, amendments may be made only pursuant to the terms of Fed. R. Civ. P. 15(a)(2).
2. The parties shall submit a joint report to the Court concerning patent-related issues and issues to be tried by September 5, 2008.
3. Fact discovery is to be completed by September 30, 2008.

- (a) Depositions shall proceed concurrently.
- (b) Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.
- (c) Paragraph 2 of the Stipulation on Deposition Procedures entered into on July 26, 2007 is amended as follows: (i) PSI and intervenor T3 Technologies Inc. will be considered to be one party for purposes of calculating the following number of depositions available to "each party;" and (ii) Paragraph 2 shall read, "Each party may take the depositions of 25 fact witnesses employed by the opposing party, including inventors. Former employees represented by a party are included within this limitation." This change is without prejudice to any party's ability to seek leave of Court for additional depositions pursuant to Fed. R. Civ. P. 30(b)(2)(A).

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4. Initial expert reports are to be served by T3 no later than November 3, 2008.
5. Expert reports are to be served by IBM no later than December 8, 2008.
6. Expert rebuttal reports (limited to responding to issues raised in any IBM reports that were not addressed in T3's initial reports) are to be served by T3 no later than December 22, 2008.
7. All discovery is to be completed by January 21, 2009.
8. Dispositive motions to be served no later than December 30, 2008. Responses to dispositive motions to be served no later than January 30, 2009. Replies to be served by February 13, 2009. Each party may serve more than one dispositive motion and may serve such motions at any time and, if such motions are served before the December 30, 2008 deadline, responses shall be due within 30 days and replies shall be due within 15 days of service of responses.
9. The parties have agreed that this case shall be ready for trial on all issues as soon after March 1, 2009, as the Court's schedule permits. The parties agree that all claims that survive dispositive motion shall be tried in a single, non-separated proceeding. The parties currently estimate that four weeks of trial time, equally divided between IBM and T3, will be needed to try the case.

Strict compliance with the trial readiness date will be required. This Amended Plan and Order may not be changed without leave of the Court, except that upon signing a Consent for Trial Before a United States Magistrate Judge, the Magistrate Judge will establish an agreed date certain for trial and will amend this Plan and Order to provide for trial readiness consistent with that agreed date.

New York, New York
Dated: July 28, 2008

SO ORDERED



Lewis A. Kaplan, U.S.D.J.